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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,556	01/25/2002	Michael W. Wallace	3301-007	4673

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EXAMINER
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ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/057,556	<b>Applicant(s)</b> WALLACE, MICHAEL W.	
	<b>Examiner</b> Neveen Abel-Jalil	<b>Art Unit</b> 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5-January-2007 has been entered.
2. The Amendment filed on 5-January-2007 has been received and entered. Claims 1-13 have been cancelled. Claims 20-27 have been added. Therefore, claims 14-27 are now pending.

### ***Claim Objections***

3. Claims 20, 22, 24, 25, and 26 are objected to because of the following informalities:

In claims 20, 22, 24, 25, and 26, the limitations “allowing” and “adapted to”/”capable of” in various lines, are indirect, suggest optionally, and passive which renders any recitation claimed after not be given patentable weight. Appropriate correction is required.

The Examiner points to MPEP 2106 [III-C] wherein the claim’s recitations of “adapted to” and “allowing”/”capable of” raises the question to Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

Office personnel must rely on the applicant's disclosure to properly determine the meaning of \*\* the claims. Limitations appearing in the specification but not recited in the claim are not read into the claim; therefore, in this case, the recitation of "adapted to" and "allowing"/"capable of" as interpreted in light of the specification provide the "functionality" or "the capability" of the database management system to perform the steps without definite disclosure limiting or excluding any alternative, negative, or even all together suggest actually performing or implementing the functionality that is database management system is capable of.

Therefore, any cited art that teaches the steps otherwise in the alternative can be used to reject the instant application. The computer being adapted to perform a function does not mean that it will ever actually perform that functionality (i.e. "adapted to" and "allowing"/"capable of" should be clarified and changed to a more definite term such as "configured to" and "performing" or "providing"). Appropriate correction is required.

Claim 25, line 12, recite "so that" and "user may" which suggest optionally and does not have to take place. The "so that" should either be deleted or replaced with "wherein" and the "may" should either be deleted or replaced with more direct language such as "will" or "selects simultaneously". Appropriate correction is required.

Claim 25's preamble starts with "A system" which does necessary indicate it to be a "computer" system. The claim should affirmatively state the "system" to be a "computer system". Dependent claims 26 and 27 should carry the same language.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 14-18, 20, and 22-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (U.S. Patent No. 6,898,762 B2).

As to claims 14, 20, and 25, Ellis et al. discloses a system for playing media content on a media playing means, the system comprising:

the media playing means for playing the media content for a user where the playing means is capable of playing movies (See Figure 2c, shows television); and

control means, coupled to the media playing means, for allowing the user to play selected media (See Figure 3, shows various control means), the control means having:

data storage means for storing the media content, each of the media content being associated with one or more topic criteria from a list of such criteria, at least one of the media content items being associated with two or more topic criteria from the list (See Figure 3, also see Figure 17a, shows selections made with respect to 3 top categories);

display means for simultaneously visually displaying the list of topic criteria (See Figure 20a, shows current channel highlighted on screen);

user interface means, displayed on the display means, for displaying the list of topic criteria so that the user simultaneously select two or more and less than all topic criteria from the list and play media content associated with the simultaneously selected topic criteria (See Figure 17a, shows “AN” operator of 3 top level categories); and

a compiler adapted to compile media content items based on the simultaneously selected two or more and less than all topic criteria (See column 12, lines 53-65).

As to claims 15, and 22, Ellis et al. discloses further comprising the steps of:

where the sub-list includes a plurality of media content items, displaying a submenu of conditions associated with the media content items included within the sub-list (See column 11, lines 55-67);

allowing selection of one or more of the submenu conditions (See column 11, lines 3-10);  
and

compiling the submenu selections with the sub-list to result in the selected media content item (See column 12, lines 53-65).

As to claim 16, Ellis et al. discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying of list of content associated with all of said top-level categories selected from the list (See Figure 15, compiled search results).

As to claim 17, Ellis et al. discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying of list of content associated with exactly all of said top-level categories selected from the list (See Figure 14, wherein "Profile#1 is constructed from all selected top categories).

As to claim 18, Ellis et al. discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying a list of content associated with any one or more top-level categories selected from the list (See Figure 5, content related to any of those categories, also see column 11, lines 55-67).

As to claim 23, Ellis et al. where the sub-list includes only a single media content item, further comprising the step of presenting the single media content item for play without presenting a submenu (See Figure 5, 120, 102, 106, are various on screen selectable buttons).

As to claim 24, Ellis et al. disclose wherein the step of allowing a multiple selection by the user of two or more topic criteria includes:

displaying a selection button on the display screen together with the list of topic criteria (See Figure 5, 120, 102, 106, are various on screen selectable buttons); and

only performing the single compile after the selection button has been activated by the user (See Figure 9a, shows "AND" operator of various selections made referencing the top categories of Figure 5).

As to claim 26, Ellis et al. disclose wherein the user interface means further includes selection means for allowing the user to individually select each of the two or more displayed topic criteria individually (See Figure 5, 120, 102, 106, are various on screen selectable buttons) and then select a select button triggering the simultaneous selection of the two or more displayed topic criteria (See Figure 9a, shows “AND” operator of various selections made referencing the top categories of Figure 5).

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19, 21, and 27 are rejected under 35 U.S.C. 103(a) as being obvious over Ellis et al. (U.S. Patent No. 6,898,762 B2).

As to claims 19, 21, and 27, Ellis et al. teaches the claimed invention but does not explicitly teach wherein the list of top-level categories includes at least four of the following: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi. Although, Ellis et al. does teach one example of a top-level category to be “Genre” (which includes in its menu: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi.) among other various categories (See Ellis et al. Figure 5, 102), which can easily be modified, to be the



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contents of said "Genre" i.e. action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Ellis et al. to include wherein the list of top-level categories includes at least four of the following: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi because it is well known in the database art that a user screen can display more than one category and that categories are customizable whereby the ones specific to electronic program guide would certainly include movie genres.

Alternatively, the claims are rejected under:

8. Claims 14-18, 20, and 22-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (U.S. Patent No. 6,408,437 B1).

As to claims 14, 20, and 25, Hendricks et al. discloses a system for playing media content on a media playing means, the system comprising:

the media playing means for playing the media content for a user where the playing means is capable of playing movies (See Figure 2, 202, TV); and

control means, coupled to the media playing means, for allowing the user to play selected media (See Figure 3, shows remote controller and set-up box reading on "control means"), the control means having:

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data storage means for storing the media content, each of the media content being associated with one or more topic criteria from a list of such criteria, at least one of the media content items being associated with two or more topic criteria from the list (See column 3, lines 20-30, and see Figure 11a, shows topics criteria, also see column 32, lines 52-67);

display means for simultaneously visually displaying the list of topic criteria (See column 3, lines 20-30, and see Figure 11a, shows topics criteria, also see column 32, lines 52-67);

user interface means, displayed on the display means, for displaying the list of topic criteria so that the user simultaneously select two or more and less than all topic criteria from the list and play media content associated with the simultaneously selected topic criteria (See column 3, lines 20-30, and see Figure 11a, shows topics criteria, also see column 32, lines 52-67); and

a compiler adapted to compile media content items based on the simultaneously selected two or more and less than all topic criteria (See column 32, lines 52-65, and see column 36, lines 11-23, also see column 37, lines 50-57).

As to claims 15, and 22, Hendricks et al. discloses further comprising the steps of:

where the sub-list includes a plurality of media content items, displaying a submenu of conditions associated with the media content items included within the sub-list (See column 32, lines 29-56);

allowing selection of one or more of the submenu conditions (See column 32, lines 29-56); and

compiling the submenu selections with the sub-list to result in the selected media content item (See column 32, lines 29-56).

As to claim 16, Hendricks et al. discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying of list of content associated with all of said top-level categories selected from the list (See column 31, lines 18-29).

As to claim 17, Hendricks et al. discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying of list of content associated with exactly all of said top-level categories selected from the list (See column 31, lines 18-29).

As to claim 18, Hendricks et al. discloses wherein the step of presenting on the display screen content responsive to said selecting step includes the step of displaying a list of content associated with any one or more top-level categories selected from the list (See Figure 11b, shows “mood” submenu).

As to claim 23, Hendricks et al. discloses where the sub-list includes only a single media content item, further comprising the step of presenting the single media content item for play without presenting a submenu (See Figure 11a, shows main menu).

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As to claim 24, Hendricks et al. discloses wherein the step of allowing a multiple selection by the user of two or more topic criteria includes:

displaying a selection button on the display screen together with the list of topic criteria (See Figure 11a); and

only performing the single compile after the selection button has been activated by the user (See column 32, lines 52-56).

As to claim 26, Hendricks et al. discloses wherein the user interface means further includes selection means for allowing the user to individually select each of the two or more displayed topic criteria individually and then select a select button triggering the simultaneous selection of the two or more displayed topic criteria (See column 31, lines 30-38, also see column 32, lines 52-56).

### *Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 19, 21, and 27 are rejected under 35 U.S.C. 103(a) as being obvious over Hendricks et al. (U.S. Patent No. 6,408,437 B1).

As to claims 19, 21, and 27, Hendricks et al. teaches the claimed invention but does not explicitly teach wherein the list of top-level categories includes at least four of the following: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi. Although, Hendricks et al. does teach one example of a top-level category to be “Genre” (which includes in its menu: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi.) among other various categories (See Hendricks et al. Figure 11a, 1152), which can easily be modified, to be the contents of said “Genre” i.e. action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Hendricks et al. to include wherein the list of top-level categories includes at least four of the following: action, adventure, adult, comedy, drama, foreign, musical, romance and sci-fi because it is well known in the database art that a user screen can display more than one category and that categories are customizable whereby the ones specific to electronic program guide would certainly include movie genres.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 14-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Witek et al. (U.S. Patent No. 6,253,188 B1) teaches an “AND” operator in category selection.

Schirmer et al. (U.S. Patent No. 6,768,997 B2) teaches selection of multiple categories using drop-down menu.

Hanai et al. (U.S. Patent No. 7,117,524 B2) teaches making a selection of EPG while presenting original categories on the screen.

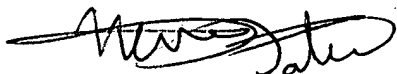
Oosterhout et al. (U.S. Patent No. 6,405,371 B1) teaches navigating through a television program.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Neveen Abel-Jalil  
March 8, 2007